

Bureau of Environmental Remediation
Curtis State Office Building
1000 SW Jackson St., Suite 410
Topeka, KS 66612-1367



phone: 785-296-2866
fax: 785-296-4823
chase@kdheks.gov
www.kdheks.gov

Susan Mosier, MD, Secretary

Department of Health and Environment

Sam Brownback, Governor

May 27, 2016

Liz Hagenmaier
Remedial Project Manager
U.S. Environmental Protection Agency - Region 7
Superfund Division - Special Emphasis Branch
11201 Renner Boulevard
Lenexa, KS 66219

SUBJECT: ARARs for the *Draft Feasibility Study, Cherokee County Operable Unit 8 Railroads Site, Cherokee County, Kansas*

Dear Ms. Hagenmaier:

The Kansas Department of Health and Environment, Bureau of Environmental Remediation (KDHE-BER) has reviewed the referenced subject document. Please find enclosed tables with applicable or relevant and appropriate requirements (ARARs) formatted per EPA's request.

Thank you for providing KDHE the opportunity to review and comment. If you have any questions, please contact me at using the information in the upper-right letterhead.

Sincerely,

Chris D. Hase
Project Manager

Attachment: Tables 1-3: State ARARs

cc: Todd Campbell; File → C3-011-73152 (1)

0737

40514480



Superfund

0008

5/27/16

53

Table # 1
State Chemical-Specific ARARs

A. ARARs	Citation	Description
1. Clean Water Act (CWA) of 1977	33 U.S.C. § 1251 et seq. as amended in 1987	Implements a system to impose effluent limitations on, or otherwise prevent, discharges of pollutants into any waters of the United States from any point source. Will be applicable if discharges to streams, rivers, or lakes occur from a site.
2. Safe Drinking Water Act (SDWA) of 1974	42 U.S.C. 300f-300j-9 et seq. as amended in 2002	Set national health-based standards for drinking water to protect against both naturally-occurring and man-made contaminants that may be found in drinking water. EPA sets standards for drinking water quality and with its partners implements various technical and financial programs to ensure drinking water safety. Will be applicable at the distribution point (i.e., at the tap). Will be relevant and appropriate at sites where potential drinking water sources—rivers, lakes, reservoirs, springs, and ground water wells—are affected.
3. Kansas Surface Water Quality Standards	K.A.R. 28-16-28b through 28-16-28g	Establishes water quality criteria in surface waters of the state to maintain and protect the existing uses of those surface waters. Will be relevant and appropriate at sites where surface waters of the state are affected.
4. Kansas Primary Drinking Water Regulations	K.A.R. 28-15a-11	Establishes maximum contaminant levels (MCLs) for inorganic chemicals that are health risk based standards for drinking water. Will be applicable at the distribution point (i.e., at the tap). Will be relevant and appropriate at sites where potential drinking water sources—rivers, lakes, reservoirs, springs, and ground water wells—are affected.
B. To Be Considered		
5. Screening Goals for Contaminants in Soil and Groundwater	Kansas Department of Health and Environment (KDHE), Bureau of Environmental Remediation (BER), Risk Based Standards for Kansas, RSK Manual - 5th Version, October 2010, Revised September 2015, as amended	Identifies risk-based cleanup screening goals for contaminants in soil and groundwater.

Table # 2
State Location-Specific ARARs

A. ARARs	Citation	Description
6. Archaeological and Historic Preservation Act of 1974	16 U.S.C. § 469 et seq.	Provides for the preservation of historical or archaeological data which might be destroyed or lost as the result of 1) flooding, building of access roads, relocation of railroads and highways, and other alterations of terrain caused by the construction of a dam by government or persons, or 2) alteration of terrain caused by Federal construction projects or federally licensed activity or program. Will be applicable if construction projects or alteration of terrain at a site have the potential to destroy historical or archaeological materials.
7. National Historic Preservation Act of 1966	16 U.S.C. § 470 et seq.	Establishes a national registry of historic sites. Provides for preservation of historic or prehistoric resources. Will be applicable if a site is listed on historic registry and if activities requiring permitting are initiated at a site.
8. Endangered Species Act of 1973	7 U.S.C. § 136; 16 U.S.C. § 460 et seq.	Provides a program for conservation of threatened and endangered plants and animals and the habitats in which they are found. Will be applicable if threatened or endangered species, or their habitats are present at or near a site.
9. Clean Water Act (CWA) of 1977 Wetlands Protection	40 CFR 22, 40 CFR 230 to 233, and 33 CFR 320 to 330	Allows for permitting of discharge of dredged or fill material to the waters of the United States if no practicable alternatives exists that are less damaging to the aquatic environment. Applicants must demonstrate that the impact to wetlands is minimized. Will be applicable if designated wetlands are affected by a remedy.
10. Flood Control Act of 1944	16 U.S.C. § 460	Provides the public with knowledge of flood hazards and promotes prudent use and management of flood plains. Will be applicable if a site is located on a designated flood plain.
11. Rivers and Harbors Appropriation Act of 1899	33 U.S.C. 401; 33 U.S.C. 403; and related regulations 33 C.F.R. 320	Prohibits building of structures (Section 9) and the disposal of dredged and fill material into waters of the U.S. without a permit by a designated federal agency. Will be applicable if structures are constructed or a discharge of dredged or fill material occurs in waters of the U.S.
12. Executive Order 11988 – Floodplain Management	40 CFR Part 6	Requires federal agencies to avoid to the extent possible the long and short-term adverse impacts associated with the occupancy and modification of flood plains and to avoid direct and indirect support of floodplain development wherever there is a practicable alternative. Will be applicable if a site is located on a designated flood plain.
13. Executive Order 11990 – Protection of wetlands	40 CFR Part 6	Requires federal agencies to avoid to the extent possible the long and short term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative. Will be applicable if designated wetlands are affected by a remedy.
14. Fish and Wildlife Conservation Act	16 U.S.C. § 2901 to 2911	Action to conserve fish and wildlife, particularly those species that are indigenous to the state. Will be applicable if significant populations are present at a site or they are affected by site activities.

Table # 3
State Action-Specific ARARs

A. ARARs	Citation	Description
19. National Pollutant Discharge Elimination System (NPDES)	40 CFR 122	Regulates discharges of pollutants from any point source into waters of the United States. Will be applicable if water from the site will be discharged onto land or into streams, rivers or lakes.
20. Storm Water Discharge Requirements NPDES	40 CFR 122.26	Provide requirements to obtain a permit to discharge to the storm water sewer system under the NPDES program. Will be applicable if the site has storm water that comes in contact with construction or industrial activity or if the selected remedy involves discharge of treated water to surface waters.
21. Federal Water Quality Standards	40 CFR 131	Establishes methods and requirements for states in the development of ambient water quality criteria for the protection of aquatic organisms and/or the protection of human health. May be indirectly applicable to surface water remediation and is directly applicable to surface water discharges.
22. Mined Land Reclamation	K.A.R. 47-16-1 to 47-16-11	Allows for the reclamation of mined land and associated waters. Will be applicable if mined land or associated waters are to be reclaimed.
23. Environmental Use Controls	K.S.A. 65-1,221 to 65-1,235	An environmental use control "means an institutional control or administrative control, a restriction, prohibition or control of one or more uses of, or activities on, a specific property, as requested by the property owner at the time of issuance, to ensure future protection of public health and the environment when environmental contamination which exceeds department standards for unrestricted use remains on the property following the appropriate assessment and/or remedial activities as directed by the department pursuant to the secretary's authority". These restrictions are strictly voluntary as the landowner applies for the restriction to their property to mitigate the risk posed to human health and the environment from contamination at their property (in lieu of active remediation).
24. Hazardous Waste Management Standards and Regulations	K.S.A. 65-3430 et seq., as amended; K.A.R. 28-31-4 et seq., as amended	Identifies the characteristics and listing of hazardous waste. Prohibits underground burial of hazardous waste except as granted by EPA or KDHE. Establishes restrictions on land disposal. Establishes standards for generators or transporters of hazardous waste. Establishes standards for hazardous waste storage, treatment and disposal facilities. Will be applicable if hazardous wastes are present at a site.
25. Kansas Board of Technical Professions	K.A.R. 66-6-1 through 66-14-12	Establishes the requirements for licensing of engineers, land surveyors, geologists, and architects. Will be applicable if the services of a geologist, engineer or land surveyor are required for site investigations or remediation.
26. Spill Reporting	K.A.R. 28-48-1 to 28-48-2	Requires reporting of unpermitted discharges or accidental spills. Requires that containment and immediate environmental response measures be implemented. Also provides for technical assistance for mercury-related spills. Will be applicable if unpermitted discharges or accidental spills occur at a site.
B. To Be Considered		

15. Fish and Wildlife Coordination Act	16 U.S.C. § 661-667e	Allows the Departments of Agriculture and Commerce to assist Federal and State agencies to study the effects of domestic sewage, trade wastes, and other polluting substances on wildlife. Will be applicable if significant populations are present at a site or they are affected by site activities.
16. Water Structures and Stream Obstructions and The Levee Law	K.S.A. 82a-301 through 82a-328; K.A.R. 5-40 through 5-46; K.S.A. 24-105 and K.S.A. 24-126; K.A.R. 5-45-1 through 5-45-23	Requires the Division of Water Resources to permit certain actions including dam construction or modification, stream obstruction construction, stream channel modification, levee construction, and floodplain fill. Will be applicable for any action requiring dam construction or modification, stream obstruction, channel modification, levee construction, or floodplain fill.
17. Kansas Historic Preservation Act	K.A.R. 118-3-1 to 118-3-16	Provides for the protection and preservation of sites and buildings listed on state or federal historic registries. Will be applicable if a site or building is listed on the state or federal historic registry and if activities requiring permitting are initiated at a site.
18. Nongame and Endangered Species Conservation Act of 1975	K.S.A. 32-957 through 32-963, 32-1009 through 32-1012, 32-1033 and K.S.A. 32-960a and 32-960b, and amendments thereto	Places the responsibility for identifying and undertaking appropriate conservation measures for listed species directly upon the Department of Wildlife, Parks and Tourism. Regulations require the department to issue special action permits for activities that affect species listed as threatened and endangered in Kansas. Will be applicable if state-listed threatened or endangered species, or their habitats are present at or near a site.
B. To Be Considered		